

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/664,919	DREW, JEFFREY M.
	Examiner Carl Colin	Art Unit 2136

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to Applicant's Appeal Brief filed 9/29/2004.
2.  The allowed claim(s) is/are 1-15.
3.  The drawings filed on 18 September 2000 are accepted by the Examiner.
4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
 of the:
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

## DETAILED ACTION

### *Reasons for Allowance*

1. The appellant's statement of the issues in the brief, filed on 8/24/2004, is correct. The rejections of claims 1-15 are withdrawn.

The following is an examiner's statement of reasons for allowance:

The prior arts of record teach detecting a request for closure of an opened computer file and determining in response to a file closure if a file has been modified, for example Chambers, US Patent 5,398,196. The prior arts also teach scanning a file for virus if file is modified, for example Branham WO-93/25024. The arguments presented by the appellant in the appeal brief filed on 8/24/2004 on pages 10-19 are persuasive. As stated by appellant on pages 10-11 Branham does not teach the step of determining in response to and after a closure request but before file closure if the opened file has been modified since being opened are not anticipated nor render obvious by the prior arts of record. The prior arts of record taken alone or in combination fail to teach, anticipate, suggest, or render obvious the claimed invention. Consequently, claim 1 is allowable over the prior art of records. Claims 2-6 are directly or indirectly dependent upon claim 1 and therefore are also allowable over the prior arts of record.

Chambers teaches raising a flag to monitor if the operating system entry point has changed and Braham teaches monitoring if an executable file has been altered. Claim 7 teaches ...after detecting a request for closure but before file closure, determining whether a modification flag has been raised by said operating system for said open file scanning said open file in response to said modification flag for viruses before permitting said operating system to close said file. Applicant's arguments on pages 15-16 are persuasive, stating "Branham does not

teach after said detecting, but before file closure accessing operating system flag that indicates whether the requested file was changed prior to said close request. The prior arts of record taken alone or in combination fail to teach, anticipate, suggest, or render obvious the claimed invention. Claims 8, 9, and 12 include the limitations of claim 7; and claim 15 includes the limitations of claim 1. Consequently, independent claims 7, 8, 9, 12, and 15 are allowed over the prior arts of record. Claims 10-11 and 13-14 are directly or indirectly dependent upon independent claims 7, 8, 9, 12, and 15 and therefore, they are also allowable over the prior arts of record.

2. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

cc

Carl Colin

Patent Examiner

February 17, 2005

